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8 **UNITED STATES DISTRICT COURT**
9 **DISTRICT OF NEVADA**
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11 GREG GUTIERREZ,

12 Plaintiff(s),

13 v.

14 NANCY A. BERRYHILL,

15 Defendant(s).

Case No.: 2:18-cv-02068-RFB-NJK

Order

[Docket No. 1]

16 Plaintiff has requested authority pursuant to 28 U.S.C. § 1915 to proceed *in forma pauperis*
17 (Docket No. 1), and has submitted a Complaint (Docket No. 1-1).

18 **I. Application to Proceed *In Forma Pauperis***

19 Plaintiff filed an application to proceed *in forma pauperis*. Docket No. 1. The application
20 has sufficiently shown an inability to prepay fees and costs or give security for them. Accordingly,
21 the application to proceed *in forma pauperis* will be granted pursuant to § 1915. The Court will
22 now review Plaintiff's complaint.

23 **II. Screening the Complaint**

24 When a party seeks permission to pursue a civil case *in forma pauperis*, courts will screen
25 the complaint. *See* 28 U.S.C. § 1915(e). With respect to social security appeals specifically, judges
26 in this District have outlined some basic requirements for complaints to satisfy the Court's
27 screening. First, the complaint must establish that administrative remedies were exhausted
28 pursuant to 42 U.S.C. § 405(g), and that the civil action was commenced within 60 days after

1 notice of a final decision. Second, the complaint must indicate the judicial district in which the
2 plaintiff resides. Third, the complaint must state the nature of the plaintiff's disability and when
3 the plaintiff claims to have become disabled. Fourth, the complaint must contain a plain, short,
4 and concise statement identifying the nature of the plaintiff's disagreement with the determination
5 made by the Social Security Administration and show that the plaintiff is entitled to relief. *See,*
6 *e.g., Graves v. Colvin*, 2015 WL 357121, *2 (D. Nev. Jan. 26, 2015) (collecting cases).

7 The Court has reviewed Plaintiff's complaint, and finds these elements have been pled
8 here.

9 **III. Conclusion**

10 Accordingly, the Court hereby **ORDERS** as follows:

- 11 1. Plaintiff's request to proceed *in forma pauperis* is **GRANTED** with the caveat that the
12 fees shall be paid if recovery is made. At this time, Plaintiff shall not be required to
13 pre-pay the filing fee.
- 14 2. Plaintiff is permitted to maintain this action to conclusion without the necessity of
15 prepayment of any additional fees or costs or the giving of a security therefor. The
16 Order granting leave to proceed *in forma pauperis* shall not extend to the issuance of
17 subpoenas at government expense.
- 18 3. The Clerk of Court shall file the Complaint.
- 19 4. The Clerk of Court shall serve the Commissioner of the Social Security Administration
20 by sending a copy of the summons and Complaint by certified mail to: (1) Office of
21 Regional Chief Counsel, Region IX, Social Security Administration, 160 Spear St.,
22 Suite 899, San Francisco, California 94105-1545; and (2) the Attorney General of the
23 United States, Department of Justice, 950 Pennsylvania Avenue, N.W., Room 4400,
24 Washington, D.C. 20530.
- 25 5. The Clerk of Court shall issue summons to the United States Attorney for the District
26 of Nevada and deliver the summons and Complaint to the U.S. Marshal for service.
- 27 6. From this point forward, Plaintiff shall serve upon Defendant or, if appearance has been
28 entered by counsel, upon the attorney, a copy of every pleading, motion or other

1 document submitted for consideration by the court. Plaintiff shall include with the
2 original paper submitted for filing a certificate stating the date that a true and correct
3 copy of the document was personally served or sent by mail to the defendants or
4 counsel for the defendants. The court may disregard any paper received by a district
5 judge or magistrate judge which has not been filed with the Clerk, and any paper
6 received by a district judge, magistrate judge or the Clerk which fails to include a
7 certificate of service.

8 IT IS SO ORDERED.

9 Dated: October 29, 2018

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12 Nancy J. Koppe
13 United States Magistrate Judge
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